

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.3.104, 32.3.106, 32.3.212,	)	AMENDMENT AND ADOPTION
32.3.501 through 32.3.506, and	)	
adoption of NEW RULES I and II	)	NO PUBLIC HEARING
pertaining to Trichomoniasis and	)	CONTEMPLATED
NEW RULES III through VI pertaining	)	
to Deputy State Veterinarians	)	

TO: All Concerned Persons

1. On November 30, 2009, the Department of Livestock proposes to amend and adopt the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on November 27, 2009 to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: cmackay@mt.gov.

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

32.3.104 SUBJECT DISEASES OR CONDITIONS (1) through (2)(l) remain the same.

(m) Trichomoniasis (Tritrichomonas [Trichomonas] foetus (quarantine));  
(n) through (11) remain the same.

AUTH : 81-2-102, 81-2-103, 81-20-101, MCA  
IMP: 81-2-102, 81-20-101, MCA

32.3.106 QUARANTINE - WHO MAY ISSUE (1) Any ~~licensed~~ Montana deputy state veterinarian or any authorized quarantine agent of the Department of Livestock may issue a quarantine.

AUTH: 81-2-102, 81-20-101, MCA  
IMP: 81-2-102, 81-20-101, MCA

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE (1) through (2)(c) remain the same.

(d) virgin bull as defined in ARM 32.3.201(h);

(e) those imported for exhibition or rodeo purposes and held in confined facilities. They shall not be used for semen collection or natural breeding;

(f) those imported to a CSS (certified semen services) bull stud or its equivalent (ARM 32.3.220);

(f) remains the same but is renumbered (g).

(3) Any Trichomoniasis test eligible bovine used for sporting or exhibition purposes that breaches a fence and commingles with other bovine shall be tested for Trichomoniasis. The owner of the trespassing bovine shall bear all costs for the requested test on that bovine.

(4) Any Trichomoniasis test eligible bull that remains in Montana for breeding purposes, change of ownership, or grazing must adhere to the conditions in ARM 32.3.502.

(3) remains the same but is renumbered (5).

AUTH: 81-2-102, 81-2-103, 81-2-707, MCA

IMP: 81-2-102, 81-2-703, MCA

#### 32.3.501 DEFINITIONS In this subchapter:

(1) through (4) remain the same but are renumbered (10) through (13).

~~(5) "Hold order" means a restriction placed on test positive animals, test positive herds, or exposed herds prohibiting their movement from a premises or a portion of a premises to minimize exposure to other animals or herds.~~

~~(6) "Individual identification" means an official United States Department of Agriculture (USDA) eartag, a breed registry tattoo, an official state issued trichomoniasis eartag, or any other means of permanent identification approved by the state veterinarian.~~

~~(7) "Official trichomoniasis test" means the sampling procedure conducted by a licensed veterinarian of the preputial content of a sexually intact male bovine and submitted to a laboratory accredited by the American Association of Veterinary Laboratory Diagnosticians or a laboratory approved by the state veterinarian to identify Tritrichomonas fetus by direct microscopic examination, in vitro cultivation, PCR testing, or other test approved by the state veterinarian.~~

~~(8) "Test positive animal" means an animal in which a laboratory accredited by the American Association of Veterinary Laboratory Diagnosticians or a laboratory approved by the state veterinarian has identified Tritrichomonas fetus by direct microscopic examination, in vitro cultivation, PCR testing, or other test approved by the state veterinarian.~~

~~(9) "Test positive herd" means a herd of cattle in which a licensed veterinarian or an approved laboratory has identified Tritrichomonas fetus in one or more animals by direct microscopic examination, in vitro cultivation, PCR testing, or other test approved by the state veterinarian.~~

~~(10) "Trichomoniasis" means a sexually transmitted disease of cattle caused by the protozoan organism Tritrichomonas (Trichomonas) fetus.~~

(1) "Acceptable specimen" means a specimen determined to be satisfactory for diagnostic testing by an approved laboratory, which was collected by a Trichomoniasis certified veterinarian and submitted with a completed and signed lab form.

(2) "Accredited veterinarian" means an individual who is currently licensed to practice veterinary medicine and is accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services in accordance with the current 9 Code of Federal Regulations, Chapter 1, § 161 in the state where that veterinarian practices.

(3) "Approved laboratory" means a laboratory accredited by the American Association of Veterinary Laboratory Diagnosticians (AAVLD) or a laboratory approved by the state veterinarian to identify Tritrichomonas foetus.

(4) "Board" means the Montana Board of Livestock.

(5) "Bovine" means any sexually intact male and female animal of the genus Bos.

(6) "Certificate of veterinary inspection" (CVI) means the form issued by the state of origin that records the consignor, consignee, identity, origin, destination, and health status of animals, issued by an accredited veterinarian of that state for interstate shipment. It is commonly known as a health certificate.

(7) "Commingle" means animals of opposite sex and belonging to the same or different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

(8) "Complete herd Trichomoniasis test" means an official T. foetus test from each nonvirgin bull in the herd.

(9) "Direct to a licensed slaughterhouse" means transporting an animal to a state or federally licensed slaughterhouse without unloading prior to arrival at the slaughterhouse.

(14) "Individual Trichomoniasis identification" means a Montana Official Trichomoniasis Tag placed in the ear at the time of the first test. Other acceptable means of identification are one of the following:

(a) an official United States Department of Agriculture (USDA) ear tag and a readable ranch tag; or

(b) a unique breed registry tattoo and a readable ranch tag; or

(c) any other means of official identification approved by the state veterinarian.

(15) "Licensed Trichomoniasis approved feedlot" means any facility which is licensed, annually, by the state veterinarian's office where:

(a) all T. foetus positive animals must be individually identified;

(b) there will be no commingling of intact male and female cattle;

(c) no animals entering the feedlot will be allowed back into the Montana breeding herd;

(d) all T. foetus positive animals must be kept for a minimum of 30 days before being sold directly to slaughter or through a licensed livestock market and then to slaughter;

(e) all T. foetus positive animals will be branded with a "V" on the right tailhead;

(f) all feedlots are subject to inspection;

(g) animals may be castrated or spayed at any time and verified by an accredited veterinarian.

(16) "Negative T. fetus bull" is a bull that T. fetus has not been detected in a preputial scraping, which has not commingled with female cattle since that test, and which qualifies by one of the following:

(a) originate from a herd not known to be infected and has had a negative official T. fetus bull test within the last 90 days;

(b) originate from a positive herd, but has a series of three negative official T. fetus bull tests at intervals of at least seven days; or

(c) has a negative official T. fetus import bull test;

(d) virgin bull.

(17) "Official Trichomoniasis test" means the sampling procedure conducted by a deputy state Trichomoniasis certified veterinarian of the preputial content of a sexually intact male bovine and submitted to an approved laboratory to identify Tritrichomonas fetus by in vitro cultivation, PCR testing, or other test approved by the state veterinarian.

(18) "Official Trichomoniasis retest" means an official Trichomoniasis test conducted at least seven days, but not more than twenty-one days apart, after any previous official Trichomoniasis test.

(19) "Premises" means the ground, area, building and/or equipment occupied by one or more bovine.

(20) "Quarantine" means movement restriction issued by a deputy state veterinarian or an agent of the department that shall be placed on one or more cattle in a positive T. fetus herd. Such restriction shall specify the identity of the animals and the premises where the animals shall be confined per ARM 32.3.108.

(21) "Quarantine release" means that all quarantined animals have completed all regulatory requirements to eliminate T. fetus infection in that herd and is no longer classified a positive herd.

(22) "Ranch Tag" is a dangle ear tag which is readable without restraint of the animal.

(23) "Seasonal grazing permit" means a permit issued by the Montana State Veterinarian's office to Montana livestock producers who utilize pasture lands and other livestock operations in one or multiple states that are contiguous with Montana.

(24) "Test eligible bull" is a nonvirgin bull 12 months of age or older, or any bull over 24 months of age.

(25) "Test positive animal" means an animal in which an approved Trichomoniasis laboratory has identified Tritrichomonas fetus by an official Trichomoniasis test.

(26) "Test positive herd" means a herd of cattle in which an approved laboratory has identified Tritrichomonas fetus in one or more animals by an official Trichomoniasis test.

(27) "Trichomoniasis" means a sexually transmitted disease of cattle caused by the protozoan organism Tritrichomonas (Trichomonas) fetus (T. fetus) that causes infertility, pyometra, abortions, and reproductive inefficiency in female cattle.

(28) "Trichomoniasis certified veterinarian" means a deputy state veterinarian who has attended a Montana Trichomoniasis training and has been certified by the Montana State Veterinarian and is able to provide an acceptable specimen to the approved laboratory.

(29) "Unacceptable sample" means a sample that is deemed not diagnostic due to compromised sample quality by an approved laboratory.

(30) "V Brand" means a 2"X3" hot iron single "V" character brand applied to the right tail-head of a bovine signifying that the bovine has tested positive for the venereal disease, Trichomoniasis (applied within 14 days of diagnosis).

(31) "Virgin bull" is defined in ARM 32.3.201 (h).

AUTH: 81-2-102, 81-2-103, MCA

IMP: 81-2-102, MCA

32.3.502 OFFICIAL TRICHOMONIASIS TESTING AND CERTIFICATION REQUIREMENTS (1) The following official ~~‡~~Trichomoniasis testing and certification requirements apply to all nonvirgin, sexually intact male cattle imported into Montana or sold, loaned, ~~or~~ leased, or otherwise acquired in Montana, except as provided in ARM 32.3.212:

(a) Nonvirgin male cattle must be negative to ~~three official trichomoniasis tests;~~ one official PCR test and originate from a herd not known to be infected with T. foetus, or to three official Trichomoniasis culture tests. For the culture tests:

(i) and (ii) remain the same.

(iii) All tested male cattle must be individually Trichomoniasis identified at the time of test;

(b) The following statement must be on the certificate of veterinary inspection: "The bull(s) identified on this certificate were negative to ~~three official trichomoniasis tests. The three tests were conducted at intervals of no less than seven days between each test~~ T. foetus in accordance with ARM 32.3.502. There was no breeding activity ~~during the intervals between the three tests or between the final test and time of import, sale, loan, or lease in Montana.~~"

(c) Tests expire within 90 days or immediately upon commingling with female cattle.

(d) Test eligible bulls sold, loaned, leased, or otherwise acquired without a negative test are considered positive and must be disposed of per ARM 32.3.505. If the bull has been identified as being sold, loaned, leased, or otherwise acquired without a negative Trichomoniasis test he must be quarantined away from females and tested as in ARM 32.3.502(1). The owner is liable for any fine, expenses, and/or misdemeanor ticket as stated in new penalty rule.

AUTH: 81-2-102, 81-2-103, 81-2-707, MCA

IMP: 81-2-102, 81-2-703, MCA

32.3.503 REPORTING TRICHOMONIASIS (1) All ~~licensed~~ approved laboratories and all ~~licensed~~ Trichomoniasis certified Montana veterinarians conducting trichomoniasis testing of cattle in Montana shall report test positive animals to the department within one working day of such test or diagnosis.

(2) Test negative animals shall be reported on a weekly basis to the state veterinarian's office by all in-state labs or the certified veterinarian, which includes the names of the Trichomoniasis certified veterinarian and owner, date tested, animal identification, type of test, and the name of the approved laboratory.

(3) All Montana veterinarians conducting Trichomoniasis testing must be certified by the state veterinarian's office in accordance with ARM 32.3.502.

AUTH: 81-2-102, 81-2-103, MCA  
IMP: 81-2-102, 81-2-107, MCA

32.3.504 CONFIRMATORY TESTING OF TEST POSITIVE ANIMALS

(1) The Department of Livestock may require or recommend a retest or supplemental testing of test positive animals to confirm infection. Any culture positive animal must be confirmed by PCR unless the animal is destined directly to slaughter.

AUTH: 81-2-102, 81-2-103, MCA  
IMP: 181-2-102, MCA

32.3.505 DISPOSITION OF TEST POSITIVE ANIMALS ~~(1) Test positive animals shall be subject to an immediate hold order and shall remain on the premises where the animal was found to be infected, the owner's premise, or another premises approved by the state veterinarian and are subject to the department's general disease control administrative rules.~~

~~(2) remains the same but is renumbered (1).~~

~~(3) (2) Test positive animals shall remain on a hold order~~ quarantined until they are:

(a) consigned directly to a licensed slaughterhouse slaughtering establishment;

(b) consigned directly to a licensed livestock market and then directly to a licensed slaughterhouse slaughtering establishment; or

(c) "V" branded and consigned directly to a licensed Trichomoniasis approved feedlot and then directly to a licensed slaughterhouse slaughtering establishment.

(3) The test positive herd shall be subject to an immediate quarantine and all animals shall remain on the current premises, the owner's premises, or another premises approved by the state veterinarian except:

(a) any individually identified animal consigned directly to a licensed livestock market, slaughterhouse, or Trichomoniasis approved feedlot;

(b) bull calves less than 12 months of age;

(c) bulls that have been individually tested negative to three consecutive official T. foetus tests at least one week apart;

(d) virgin heifers with no exposure to a bull;

(e) nonvirgin females over 12 months of age if:

(i) exposed to only known negative T. foetus bulls;

(ii) documented to be greater than 120 days pregnant by an accredited deputy state veterinarian; or

(iii) documented to have been isolated from all bulls for greater than 120 days.

(4) Release of herd quarantine will be when:

- (a) all remaining bulls 12 months of age and older, shall individually test negative to three consecutive official T. foetus tests at least one week apart; and
- (b) all conditions in (3)(e)(i) through (iii) have been met.
- (5) Breeding by artificial insemination is allowed while under quarantine.
- (6) Trichomoniasis test positive herds must have a whole herd bull test including virgin bulls 12 months of age and older, within 90 days prior to the following year's breeding season.

AUTH: 81-2-102, 81-2-103, MCA  
IMP: 81-2-102, 81-2-108, MCA

32.3.506 EPIDEMIOLOGICAL INVESTIGATION AND EXPOSED HERD NOTIFICATION (1) remains the same.

(2) Upon completion of the epidemiological investigation, the department or its agent shall issue an exposed herd notification notifying all owners or managers of likely exposed herds that the herd may have been exposed to a test positive animal or test positive herd. The department will provide owners of exposed herds with educational materials pertaining to ~~†~~Trichomoniasis, including detection, prevention, control, eradication, and management strategies.

(3) Exposed herds may be subject to ~~a hold order~~ quarantine and official ~~†~~Trichomoniasis testing and certification requirements as set forth in ARM 32.3.502.

AUTH: 81-2-102, 81-2-103, MCA  
IMP: 81-2-102, 81-2-108, MCA

4. The rules as proposed to be adopted are as follows:

NEW RULE I PUBLIC GRAZING AND GRAZING ASSOCIATIONS (1) All bulls commingling in common grazing associations and/or public lands or multiple user permits shall have the official Trichomoniasis foetus test conducted after the last breeding season and within ten months prior to next season's turn out. This test is valid for the next year's breeding season unless bulls are commingled with female cattle. Virgin bulls added to a herd are exempt from testing requirements during their first breeding season.

(a) If any bull in the common grazing association is found to be positive, the entire bull population not including bull calves less than 12 months of age, regardless of owners, will be required to have three consecutive negative weekly tests prior to turn out time.

(b) Any stray nonvirgin bull from an untested group that enters the grazing area of tested animals may be held under quarantine until the bull has one or more official T. foetus test(s) conducted.

(c) The expense of testing shall be the responsibility of the bull's owner.

AUTH: 81-2-102, 81-2-103, MCA  
IMP: 81-2-102, 81-2-108, MCA

NEW RULE II PENALTIES: (1) Persons in possession of a bull that has been sold, loaned, leased, or otherwise acquired shall have proof of current negative test or will be subject to all of the following:

(a) up to a \$500 fine to the Department of Livestock for failure to comply with ARM 32.3.502 (REF 81-2-102(c), MCA);

(b) any departmental expenses regarding the investigation if a violation of law has taken place, as defined in 81-2-109, MCA.

(2) Any person, persons, firm, or corporation that fails to comply shall also be guilty of:

(a) a misdemeanor as described in 81-2-113, MCA; or

(b) civil liability as described in 81-2-114, MCA.

(3) Disputes will be heard by the Board of Livestock according to MAPA.

AUTH: 81-2-102, 81-2-103, MCA

IMP: 81-2-102, 81-2-108, MCA

NEW RULE III DEPUTY STATE VETERINARIAN DEFINITIONS

(1) "Department" means the Department of Livestock.

(2) "Deputy State Veterinarian" means a veterinarian licensed in the state of Montana and deputized to perform state functions pursuant to Rule IV of this subchapter who does not receive a salary or compensation from the department or USDA.

(3) "USDA" means the veterinary services branch of the Animal and Plant Inspection Services, United States Department of Agriculture.

AUTH: 81-2-102, 81-2-103, MCA

IMP: 81-2-102, 81-2-108, MCA

NEW RULE IV APPOINTMENT AS DEPUTY STATE VETERINARIAN

(1) The department is authorized to deputize a veterinarian when it determines that such veterinarian:

(a) is licensed to practice veterinary medicine in Montana without restriction;

(b) has made formal application for deputization upon forms provided by the department;

(c) has been recommended by the state veterinarian and has attended the department deputy state veterinarian training; and

(d) has been accredited by USDA pursuant to 9 CFR, Chapter 1, Part 161; and

(e) follows the current Montana Deputy State Veterinarian Policy and Procedures Handbook.

AUTH: 81-2-102, 81-2-103, MCA

IMP: 81-2-102, 81-2-108, MCA

NEW RULE V DUTIES OF DEPUTY STATE VETERINARIAN (1) A deputy state veterinarian shall:



- (a) quarantine in writing all animals exposed to a quarantinable disease upon suspicion of diagnosis in the absence of, or on the order of the state veterinarian. Immediate notification of quarantine must be made to the Montana State Veterinarian's office by phone, fax, or mail;
- (b) report immediately all cases of quarantinable diseases (ARM 32.3.104 and 32.3.105) to the state veterinarian in Helena, by telephone or fax;
- (c) release quarantine upon the direction of the state veterinarian and ARM 32.3.106 through 32.3.108;
- (d) be responsible for proper use of all official certificates, forms, records, reports, tags, or other official identification used in the work as a deputy state veterinarian and take proper precautions to prevent misuse thereof;
- (e) immediately report the loss, theft, deliberate or accidental misuse of any official document or materials as listed above in [New Rule III](1)(d), and must keep these materials in only his/her custody prior to official use;
- (f) file a monthly form regarding other important reportable diseases;
- (g) mail weekly, all required inspection forms, test charts, certificates of veterinary inspection, and vaccination certificates made during the week.

AUTH: 81-2-102, 81-2-103, MCA  
IMP: 81-2-102, 81-2-108, MCA

NEW RULE VI REVOCATION OR SUSPENSION OF APPOINTMENT OF DEPUTY STATE VETERINARIAN (1) A deputy state veterinarian may have his/her appointment revoked by any of the following:

- (a) voluntarily surrendered; or
  - (b) becoming ineligible because of revocation or suspension of Montana veterinary license or USDA accreditation; or
  - (c) revoked or suspended by the department for cause, by violating ARM or established policy and/or procedures.
- (2) MAPA will be followed as in ARM 32.2.101 and 32.2.102.  
(3) Reappointment may occur as in [New Rule V].

AUTH: 81-2-102, 81-2-103, MCA  
IMP: 81-2-102, 81-2-108, MCA

REASON: The proposed amendments to ARM 32.3.104, 32.3.106, 32.3.212, 32.3.501 through 32.3.506, and adoption of NEW RULES I AND II are necessary to clarify definitions and provide consistency in disease reporting and regulatory actions required specific to Trichomoniasis in cattle. The proposed changes allow for new science which allows the Polymerase Chain Reaction (PCR) test to be used, identifies who may collect the sample, describes how positive herds and animals will be treated as well as provides penalties for noncompliance. The initial rule was a producer driven ARM in 2006 to control this economically devastating venereal disease of cattle which causes infertility. Since this rule's inception, 118 bulls have been identified as positive, exposing an estimated 3000 cows on 66 premises to Trichomoniasis.

The economic impact of these changes would include the purchase of the official Trichomoniasis ear tag from the department at cost to the veterinarian, currently at \$1.05/tag including shipping costs. Including single PCR testing as a choice instead of requiring the three negative weekly cultures will reduce producer costs of working animals through the chute three times and paying for three veterinary trip and service fees. Montana diagnostic laboratory test fees are currently \$26.00 for PCR and \$6.00 for each culture, and shipping fees are additional. Out-of-state laboratories may also be used, as long as they are approved by definition.

The new rule and subchapter for classification of Montana deputy veterinarians define an existing program that is consistent with Montana Department of Livestock and USDA requirements for veterinarians to be accredited in order to do official work like TB and Brucellosis testing and the issuing of health certificates. Deputy veterinary accreditation is an additional requirement to Montana veterinary medicine licensure, but is not a requirement of general practice. This accreditation training is already required prior to practicing certain types of veterinary medicine in Montana, by policy, but no administrative rule exists. After reviewing current ARM, this omission was revealed and this rule seeks to create accountability by the department as it is cited in 15 other rules in chapter 32.

This rule is revenue neutral.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to [cmackay@mt.gov](mailto:cmackay@mt.gov) to be received no later than 5:00 p.m., November 30, 2009.

6. If persons who are directly affected by the proposed actions wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m. November 30, 2009.

7. If the department receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed actions; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be more than 25, based upon the population of the state.

8. An electronic copy of this proposal notice is available through the department's web site at [www.liv.mt.gov](http://www.liv.mt.gov).

9. The Montana Department of Livestock maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by this department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the area of interest that the person wishes to receive notices regarding. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; faxed to (406) 444-1929 "attention Christian Mackay"; or e-mailed to [cmackay@mt.gov](mailto:cmackay@mt.gov). Request forms may also be completed at any rules hearing held by the department.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay  
Christian Mackay  
Executive Officer  
Board of Livestock  
Department of Livestock

BY: /s/ George H. Harris  
George H. Harris  
Rule Reviewer

Certified to the Secretary of State October 19, 2009